REMARKS

Applicant respectfully requests reconsideration of this application in light of the preceding amendments and the subsequent remarks.

Claims Status

Claims 1, 19 and 23 have been amended. Claims 3 and 6-18 have been cancelled, without prejudice. No new claims have been added. Therefore, claims 1-2, 4-5 and 19-26 remain pending for examination.

35 U.S.C. § 103 Rejection

Claims 1-2, 4-5 and 19-26 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Bailey, et al. ("*Bailey*"), U.S. Patent No. 6,185,623, further in view of Riedle ("*Riedle*"), U.S. Patent 6,983,334.

Claim 1, as amended, recites

> A method comprising:
> initiating, by an active device on behalf of a group of devices, a downloading session to a group address associated with the group of devices, wherein the group of devices includes the active device and a plurality of passive devices, wherein initiating includes downloading a file to be transmitted as a plurality of packets of data by the active device and a first set of the plurality of passive devices;
> checking, by a second set of the plurality of passive devices, for packet gaps once the download of the file is completed, wherein the packet gap occurs if the file size is known and a number of packets of the plurality of packets are lost and a total size of the number of lost packets is less than a pre-selected amount, wherein checking includes tracking a continuity of two or more package gaps; and
> promoting one or more of the second set of the plurality of passive devices to being one or more smart devices if the packet gap is detected for the one or more of the second set of the plurality of passive devices.
> (emphasis added)

Bailey discloses "[b]ooting diskless workstations by subnet broadcasting load programs to all network stations that join in subnet broadcast file group". (*Bailey*, abstract). Bailey does not teach or reasonably suggest "initiating, by an active device on

behalf of a group of devices . . . wherein <u>initiating includes downloading a file to be</u>

<u>transmitted as a plurality of packets of data by the active device and a first set of the</u>

<u>plurality of passive devices</u> . . . [and] <u>checking, by a second set of the plurality of passive</u>

<u>devices, for packet gaps</u> once the download of the file is completed . . . wherein <u>checking</u>

<u>includes tracking a continuity of two or more package gaps</u>" as recited by claim 1. (*claim*

1; emphasis added). The Examiner acknowledges the deficiencies of *Bailey*, but relies on

Riedle for the alleged support. (*see office action*, mailed 11/09/10, pg. 4). Applicants

respectfully disagree.

Riedle discloses tracking missing packets and further discloses "when the client is

determining *which packet(s) or groups to re-request*, the client checks the array for holes

(i.e., 0's) and re-requests the packet(s) represented by each hole found." (*Riedle*,

abstract). *Riedle* relates to determining which packets to re-request and then re-

requesting those packets. Like *Bailey*, *Riedle* does not teach or reasonably suggest

<u>checking packet gaps or tracking continuity of package gaps</u> as recited by claim 1.

Further, *Bailey* and *Riedle*, neither individually nor when combined, teach or reasonably

suggest "<u>promoting one or more of the second set of the plurality of passive devices to</u>

<u>being one or more smart devices</u> <u>if the packet gap is detected</u> for the one or more of the

second set of the plurality of passive devices" as recited by claim 1.

Accordingly, for at least the reasons set forth above with respect to claim 1,

Applicants respectfully request the withdrawal of the rejection of claim 1 and its

dependent claims.

Claims 19 and 23 contain limitations similar to those of claim 1. Accordingly, for

at least the reasons set forth above with respect to claim 1, Applicants respectfully request

the withdrawal of the rejection of claims 19 and 23 and their dependent claims.

Conclusion

In light of the foregoing, reconsideration and allowance of the claims is hereby earnestly requested.

Invitation for a Telephone Interview

The Examiner is requested to call the undersigned at (303) 740-1980 if there remains any issue with allowance of the case.

Request for an Extension of Time

Applicant respectfully petition for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17(a) for such an extension.

Charge our Deposit Account

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

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Date: December 27, 2010   /Aslam A. Jaffery/
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